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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Gary Mendivil  
Department of Environmental Conservation

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** September 27, 2018

**RE:** Filed Permanent Regulations: Department of Environmental Conservation

Department of Environmental Conservation update to regulations re: oil and other hazardous substance pollution control (18 AAC 75.025; 18 AAC 75.066; 18 AAC 75.080(m); 18 AAC 75.205(b)(3); 18 AAC 75.405 - 18 AAC 75.425; 18 AAC 75.438 - 18 AAC 75.460)

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Attorney General File:	2017200848
Regulation Filed:	9/27/2018
Effective Date:	10/27/2018
Print:	228, January 2019

cc with enclosures: Linda Miller, Department of Law  
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO  
REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached nine pages of regulations, updating oil spill prevention planning requirements, with minor housekeeping changes in 18 AAC 75 are adopted and certified to be a correct copy of the regulation changes that the Department of Environmental Conservation adopts under the authority of AS 46.03 and AS 46.04 after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Environmental Conservation paid special attention to the cost to private persons of the regulatory action being taken. Public comments were received from three parties and responses were provided to those comments. In addition, the Department of Environmental Conservation also gave special attention to alternate practical methods in this regulatory action, as required by AS 46.03.024.

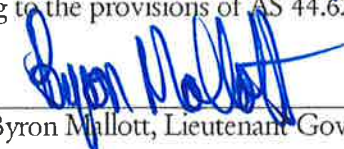
The regulation changes adopted under this order take effect on 30 days after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: July 2, 2018

  
\_\_\_\_\_  
Larry Hartig, Commissioner  
Department of Environmental Conservation

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on 9/27/18, 2018, at 1140 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.

  
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Byron Mallott, Lieutenant Governor

Effective: October 27, 2018.

Register: 228, January 2019.

18 AAC 75.025(a) is amended to read

(a) The owner or operator of an oil terminal facility, exploration facility, production facility, railroad, tank vessel, or oil barge shall take all appropriate measures to prevent spills or overfilling during a transfer of oil, including reduced loading rates at the beginning and end of a transfer.

18 AAC 75.025(j) is amended to read:

(j) In this section, "transfer" means any movement of oil [WITHIN AN OIL TERMINAL FACILITY OR BETWEEN AN OIL TERMINAL FACILITY AND A RAILROAD TANK CAR, TANK TRUCK TANK VESSEL, OR OIL BARGE] by means of pumping, gravity, or displacement

*alone more*

*0.5" tab*

(1) within an oil terminal facility; or

(2) between an oil terminal, exploration, or production facility and a railroad tank

car, tank truck, tank vessel, or oil barge. (Eff. 5/14/92, Register 122; am 10/28/2000, Register

*if no bold or underline beneath previous*

156; am 12/14/2002, Register 164; am 12/30/2006, Register 180; am 10/27/2018, Register 228)

Authority:

AS 46.03.020

AS 46.04.030

AS 46.04.070

AS 46.04.055

18 AAC 75.066(a) is amended by adding a new paragraph to read:

*alone more*

*0.5" tab*

(3) after {effective date of regulations} with a storage capacity greater than 50,000

gallons shall meet the requirements of 18 AAC 75.065.

18 AAC 75.066(d)(2) is amended to read:

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(2) has, at each tank fill connection, a fixed [OVERFILL] spill containment system designed to prevent a discharge when a transfer hose or pipe is detached from the tank fill pipe or to divert that discharge into the secondary containment dike;

18 AAC 75.066(e)(2) is amended to read:

*one more 0.5" tab*

(2) at each tank fill connection with a fixed [OVERFILL] spill containment system designed to prevent a discharge when a transfer hose or pipe is detached from the tank fill pipe;

18 AAC 75.066(g)(2) is amended to read:

*one more 0.5" tab*

(2) [IF THE TANK ~~is~~ EQUIPPED, AT <sup>equip</sup> ~~be~~ ENSURE THAT THE TANK IS] equipped [,] at each tank fill connection [,] with a fixed [OVERFILL] spill containment system designed to prevent a discharge when a transfer hose or pipe is detached from the tank fill pipe.

(Eff. 12/30/2006, Register 180; am 10/24/2018 Register 228)

**Authority:** AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.080(m) is amended to read:

*Capitalize the "A"*

(m) an [THE] owner or operator [OF ABOVEGROUND FACILITY OIL PIPING LOCATED OUTSIDE A SUFFICIENTLY IMPERMEABLE DECK ONBOARD A MARINE STRUCTURE OR AT A SOIL-TO-AIR INTERFACE] shall ensure that [THE] aboveground facility oil piping is protected against external corrosion through the application of a protective coating or by the use of corrosion-resistant materials for piping

(1) located outside a sufficiently impermeable deck onboard a marine

**structure; or**

**(2) at a soil-to-air interface.**

*"Do not bold or underline the period"*

(Eff. 5/14/92, Register 122; am 12/30/2006, Register 180; am 3/23/2017, Register 221; am 10/21/2018, Register 228)

**Authority:** AS 46.03.020 AS 46.04.030 AS 46.04.070

The introductory language of 18 AAC 75.205(b)(3) is amended to read:

(3) for a nontank vessel, the completed and signed application must be received by the department at least 15 days, **but no earlier than 90 days**, before operations are proposed to begin; the department will accept an application received less than 15 days before operations are proposed to begin and expedite the review of the application, if the

• • •  
(Eff. 5/14/92, Register 122; am 10/28/2000, Register 156; am 11/27/2002, Register 164; am 3/23/2017, Register 221; am 10/21/2018, Register 228)

**Authority:** AS 46.03.020 AS 46.04.055 AS 46.04.070  
AS 46.04.040

18 AAC 75.405(b) is amended to read:

(b) [FOR AN APPLICATION SUBMITTED AFTER OCTOBER 16, 2016, THE] The  
applicant must consult with the department not later than 30 days before submitting the application package to ensure that the application meets the requirements of 18 AAC 75.408 and the requirements of 18 AAC 75.410 or 18 AAC 75.420 to discuss the contents of the proposed plan, and to discuss the review process under 18 AAC 75.455.

(Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 4/16/2016, Register 218; am

3/23/2017, Register 221; am 10/27/2018, Register 228 )

**Authority:** AS 46.03.020 AS 46.04.050 AS 46.04.070  
AS 46.04.030 AS 46.04.055

18 AAC 75.408(c)(1) is amended to read:

(1) [FOR SUBMITTALS AFTER OCTOBER 16, 2016,] the format must be electronic, paper, or both, as the department specifies;

18 AAC 75.408(c)(3) is amended to read:

(3) [FOR SUBMITTALS AFTER OCTOBER 16, 2016,] the department will specify the electronic format to be used; the submittal must be electronically searchable;

18 AAC 75.408(c)(7) is amended to read:

(7) [FOR SUBMITTALS AFTER OCTOBER 16, 2016,] all proposed additions, revisions, and deletions must be identified in the plan as applicable; the department may also request a summary of changes in a table format;

18 AAC 75.408(c)(8) is amended to read:

(8) [AFTER OCTOBER 16, 2016,] for new plans, plan renewals, and major amendments, the department will post a copy of the proposed and final version of the application package on the department's website; for minor amendments and routine updates, the department will post a copy of the final version of the application package on the department's website.

(Eff. 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/27/2018, Register 228)

**Authority:** AS 46.03.020 AS 46.04.055 AS 46.04.070  
AS 46.04.030

18 AAC 75.410(a) is amended to read:

(a) An application for approval of a new oil discharge prevention and contingency plan must be submitted in accordance with 18 AAC 75.408. <sup>y</sup>[FOR SUBMITTALS AFTER OCTOBER 16, 2016, AN] An application must be submitted at least 180 days before the proposed start of operation.

(Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 4/8/2012, Register 202; am 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/21/2018, Register 228)

**Authority:** AS 46.03.020 AS 46.04.055 AS 46.04.070  
AS 46.04.030

18 AAC 75.415(c) is amended to read:

(c) An application for approval of a plan amendment to allow the addition of a vessel to operate under an approved oil barge or tank vessel oil discharge prevention and contingency plan must include the information required by 18 AAC 75.425(e)(1)(H) and (3)(A)(iii), (v), (vi), (viii) <sup>z</sup>and (x). A plan amendment for the addition of an oil barge or tank vessel must be submitted not later than five working days before the vessel operates in state waters. The department will review the amendment and issue a written decision not later than five working days after receiving a proposed plan amendment under this subsection unless the department determines that it is a major amendment under (a) of this section.

(Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 12/14/2002, Register 164; am



4/8/2012, Register 202; am 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/27/2018, Register 228)

**Authority:** AS 46.03.020 AS 46.04.055 AS 46.04.070  
AS 46.04.030

18 AAC 75.420(a) is amended to read:

(a) A plan holder must apply for renewal of the department's approval of an oil discharge prevention and contingency plan in accordance with 18 AAC 75.408. <sup>y</sup> [FOR SUBMITTALS AFTER OCTOBER 16, 2016, THE] The application must be submitted at least 180 days, or the number of days stated in the plan approval letter under 18 AAC 75.460(a), in advance of expiration of the plan to allow sufficient time for [PERMIT] department review before the plan approval expires.

(Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/27/2018, Register 228)

**Authority:** AS 46.03.020 AS 46.04.055 AS 46.04.070  
AS 46.04.030

18 AAC 75.425(e)(4)(A)(ii) is amended to read:

18 AAC 75.065(i)(3)  
or (j)(3) [18 AAC  
75.065(h)(2),  
(i)(3), OR (j)(3)];

(ii) for a terminal, a crude oil transmission pipeline, or an exploration and production contingency plan: [CATHODIC PROTECTION OR ANOTHER] an approved corrosion control system other than cathodic protection if required by ~~18 AAC 75.065 [(h)(2), (i)(3) or (j)(3)]~~; a leak detection system for each tank if required by 18 AAC 75.065(i)(4) or (j)(4); any other



*add the  
lowercase "l")*

18 AAC 75.080(d), (l),  
or (m)(1) or (2)  
[18 AAC 75.080(d),  
(k)(1), (l), or (m)];

prevention or control system approved by the department under

18 AAC 75.065(h)(1)(D); a means of immediately determining the liquid level of bulk storage tanks as specified in 18 AAC 75.065(k)(3) and (4) or in

18 AAC 75.066(g)(1)(C) and (D); **a corrosion control program**

[MAINTENANCE PRACTICES] for metallic piping containing oil as required

by 18 AAC 75.080(b); protective coating and cathodic protection if required by

~~18 AAC 75.080(d), [(k)(1),] (l), or (m)(1) or (m)(2);~~ and cathodic protection

surveys required by 18 AAC 75.080(k)(2);

(Eff. 5/14/92, Register 122; am 9/25/93, Register 127; am 3/28/96, Register 137; am 4/4/97,

Register 142; am 12/14/2002, Register 164; am 5/26/2004, Register 170; am 12/30/2006,

Register 180; am 9/4/2014, Register 211; am 3/23/2017, Register 221; am 10/27/2018, Register

228)

**Authority:** AS 46.03.020 AS 46.04.035 AS 46.04.070  
AS 46.04.030 AS 46.04.055

18 AAC 75.438(c) is amended to read:

(c) In addition to the requirements of (a) of this section, for all crude oil tank vessels and barges, the plan holder shall plan to have deployed and operating within 72 hours, from within or outside its region of operation, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and other resources to contain and control, and clean up at least 60 percent of the total cargo **volume** [CAPACITY] of the tank vessel or barge.

(Eff. 5/14/92, Register 122; am 10/27/2018, Register 228)

**Authority:** AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.440(b) is amended to read:

(b) The response planning standard volume for a noncrude oil tank vessel or barge is equal to 15 percent of the total cargo **volume** [CAPACITY] of the oil tank vessel or barge. (Eff. 5/14/92, Register 122; am 10/27/2018, Register 228)

**Authority:** AS 46.03.020 AS 46.04.030 AS 46.04.070

18 AAC 75.455(b)(5)(D) is amended to read:

(D) [AFTER OCTOBER 16, 2016,] a statement that the package is available on the department's Internet website.

18 AAC 75.455(c)(3) is amended to read:

(3) if the applicant has not provided the information requested or if the applicant's responses to requests for additional information cause the department to identify **the need for** additional information [NEEDED TO FIND THE APPLICATION PACKAGE IS COMPLETE], the department will send subsequent requests for additional information until the department determines that the **applicant has supplied the necessary information in response to the** requests [HAVE BEEN ANSWERED AND THE APPLICATION PACKAGE IS COMPLETE]; and

(Eff. 5/14/92, Register 122; am 11/27/2002, Register 164; am 4/8/2012, Register 202; am 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/27/2018, Register 228)

**Authority:** AS 46.03.020 AS 46.04.055 AS 46.04.070  
AS 46.04.030

18 AAC 75.460(b)(3) is amended to read:

(3) a statement that the plan holder will provide copies of the approved plan in accordance with 18 AAC 75.408 not later than 30 days after approval; [FOR SUBMITTALS AFTER OCTOBER 16, 2016,] the department will send a notice by electronic mail to the parties specified in 18 AAC 75.408(c)(4) that the document is available on the department's Internet website.

(Eff. 5/14/92, Register 122; am 7/11/2002, Register 163; am 11/27/2002, Register 164; am 9/4/2014, Register 211; am 4/16/2016, Register 218; am 3/23/2017, Register 221; am 10/23/2018, Register 228)

**Authority:** AS 46.03.020      AS 46.04.055      AS 46.04.070  
AS 46.04.030